

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JUDITH ANN DePHILLIPS,

Plaintiff(s),

**ORDER**

-against-

CV 04-5570 (SJF) (WDW)

TOWN OF RIVERHEAD, TOWN OF RIVERHEAD  
POLICE DEPARTMENT, SERGEANT JOHN VAIL,  
OFFICER TIMOTHY McALLISTER, and  
OFFICER RAYMOND BROGAN,

Defendant(s).

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**WILLIAM D. WALL, United States Magistrate Judge:**

Before the court are (1) the defendants' motion for reconsideration of the court's order dated September 13, 2006 and (2) the plaintiff's motion for sanctions. For the reasons set forth herein, the defendants' motion is granted and the plaintiff's motion is denied. The order of September 13 [DE#48] is vacated.

On September 13, the undersigned granted plaintiff's pending discovery motion as unopposed, and imposed sanctions of \$500 on defendants for their failure to appear at the conference on that date. The rulings were set forth in a civil conference sheet order form, which was immediately docketed as entry number 48. After the conference concluded, defense counsel appeared, and reported that the time of the conference had apparently been mis-calendared in his office and that he believed he could enter his opposition to the motion orally at the conference. Because the order had already been docketed, the court told counsel he would have to make a motion for reconsideration. He did so, and the court now grants that order. The documents sought by the plaintiff have already been produced or do not exist or are not in the possession of the defendants, and thus cannot be produced. Moreover, the court accepts defense counsel's

explanation for his tardy appearance. Counsel is once again warned, however, that letter motions must be timely opposed in writing, or they will be granted as unopposed. The order of September 13 is vacated.

The plaintiff moves for sanctions pursuant to Rule 37, claiming that the defendants have not complied with orders of this court<sup>1</sup>. The defendants charge that the motion is disingenuous and that none of the discovery abuses the plaintiff describes are accurate representations of the true history of discovery in this matter. The court accepts the defendants' version of the facts. The plaintiff may not like the fact that some of what she seeks is not available for production, but that does not warrant the imposition of sanctions on the defendants.

Dated: Central Islip, New York  
October 5, 2006

**SO ORDERED:**

/s/ William D. Wall  
WILLIAM D. WALL  
United States Magistrate Judge

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<sup>1</sup>The court notes that the plaintiff's letter motion, which exceeds the three page limit provided for in the Local Rules and the undersigned's Individual Rules, might have been rejected on that ground. The court has, however, considered the motion. The plaintiff's reply letter, which also violates the Local and Individual Rules against replies on letter motions, will not be considered and will be returned to the plaintiff without docketing.